

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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ROBERTO DURAND,

Petitioner,

v.

CLARK COUNTY DISTRICT COURTS,

Respondent.

Case No. 3:19-cv-00744-MMD-CLB

ORDER

On December 18, 2019, the Court dismissed this habeas action without prejudice as improperly filed. (ECF No. 3.) Judgment was entered and the case was closed. (ECF No. 4.) Petitioner Roberto Durand appealed, and on December 14, 2021, the Ninth Circuit Court of Appeals denied Durand a certificate of appealability. (ECF No. 8.) Durand appealed again, and on December 1, 2022, the Ninth Circuit again denied Durand a certificate of appealability. (ECF No. 14.) Durand then moved for “safekeeping.” (ECF No. 15.) The Court denied the request because Durand’s issues were not properly brought in a closed 28 U.S.C. § 2254 action. (ECF No. 16.) Durand appealed the Court’s post-judgment order. (ECF No. 17.) On February 17, 2023, the Ninth Circuit denied Durand a certificate of appealability. (ECF No. 22.)

This closed habeas matter is now before the Court on Durand’s affidavit of custody release, declaration for administrative release, and incomplete motion for leave to proceed *in forma pauperis*. (ECF Nos. 23 (“Affidavit”), 24 (“Declaration”), 25 (“Motion”).) This action has been and remains closed. If Durand wishes to seek relief in the Court, he must file a new action, with a new case number, on the correct court-required form accompanied by the filing fee or a fully completed *in forma pauperis* application. The Court will direct the Clerk of Court to designate Durand as a restricted filer in this matter

1 and to not accept any further filings in this closed action other than a notice of appeal
2 from this order.

3 It is therefore ordered that the motion for leave to proceed *in forma pauperis* (ECF
4 No. 25) is denied.

5 The Clerk of Court is directed to designate Petitioner Roberto Durand as a
6 restricted filer in this matter. The Clerk will return unfiled any further papers submitted by
7 Durand in this matter other than a notice of appeal from this order.

8 It is further ordered that, to the extent required, a certificate of appealability is
9 denied, as jurists of reason would not find the District Court's disposition of Durand's
10 Motion to be debatable or incorrect.

11 DATED THIS 21st Day of March 2023.

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14 MIRANDA M. DU
15 CHIEF UNITED STATES DISTRICT JUDGE
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